

On July 13, 2011, the Nebraska Supreme Court adopted the following amendments to Neb. Ct. R. §§ 4-203, 4-212, 4-215, 4-221, 4-222 and Worksheets 1 and 5, effective September 1, 2011.

## **CHAPTER 4**

### **CHILDREN AND FAMILIES**

#### **ARTICLE 2**

#### **CHILD SUPPORT GUIDELINES**

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#### **§ 4-203. Rebuttable presumption.**

The child support guidelines shall be applied as a rebuttable presumption. All orders for child support obligations shall be established in accordance with the provisions of the guidelines unless the court finds that one or both parties have produced sufficient evidence to rebut the presumption that the guidelines should be applied. All stipulated agreements for child support must be reviewed against the guidelines and if a deviation exists and is approved by the court, specific findings giving the reason for the deviation must be made. Findings must state the amount of support that would have been required under the guidelines and include a justification of why the order varies from the guidelines. Deviations must take into consideration the best interests of the child. In the event of a deviation, the reason for the deviation shall be contained in the findings portion of the decree or order, or worksheet 5 should be completed by the court and filed in the court file. Deviations from the guidelines are permissible under the following circumstances:

- (A) When there are extraordinary medical costs of either parent or child;
- (B) when special needs of a disabled child exist;

(C) if total net income exceeds \$15,000 monthly, child support for amounts in excess of \$15,000 monthly may be more but shall not be less than the amount which would be computed using the \$15,000 monthly income unless other permissible deviations exist. To assist the court and not as a rebuttable presumption, the court may use the amount at \$15,000 plus: 10 percent of net income above \$15,000 for one, two, and three children; 12 percent of net income above \$15,000 for four children; 13 percent of net income for five children; and 14 percent of net income for six children. For example, if the combined net parental income is \$25,000 monthly and there is one child, the schedule amount at \$15,000 is \$2,201. Ten percent of the net income above \$15,000 is \$1,000 (\$10,000 times .10). Therefore, the basic obligation is \$3,201 (\$2,201 plus \$1,000). If the obligor's share of the total net income is 85 percent, the obligor's share of the support is \$2,721 (\$3,201 times .85).

- (D) for juveniles placed in foster care; or
- (E) whenever the application of the guidelines in an individual case would be unjust or inappropriate.

All orders for child support, including modifications, must include a basic income and support calculation worksheet 1, and if used, worksheet 2 or 3.

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#### **§ 4-212. Joint physical custody.**

When a specific provision for joint physical custody is ordered and each party's parenting time exceeds 142 days per year, it is a rebuttable presumption that support shall be calculated using worksheet 3. When a specific provision for joint physical custody is ordered and one party's parenting time is 109 to 142 days per year, the use of worksheet 3 to calculate support is at the discretion of the court. If child support is determined under this paragraph, all reasonable and necessary direct expenditures made solely for the child(ren) such as clothing and extracurricular activities ~~may~~ shall be allocated between the parents, ~~as determined by the court,~~ but shall not exceed the proportion of the obligor's parental contributions (worksheet 1, line 6). For purposes of these guidelines, a "day" shall be generally defined as including an overnight period.

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**§ 4-215. Child(ren)'s health insurance, nonreimbursed health care expenses, and cash medical support in Title IV-D cases.**

As required by Neb. Rev. Stat. § 42-369(2), the child support order shall address how the parents will provide for the child(ren)'s health care needs through health insurance as well as the nonreimbursed reasonable and necessary child(ren)'s health care costs that are not included in table 1 that are provided for in § 4-215(B).

(A) Health Insurance. The increased cost to the parent for health insurance for the child(ren) of the parent shall be prorated between the parents. When worksheet 1 is used, it shall be added to the monthly support from line 7, then prorated between the parents to arrive at each party's share of monthly support on line 10 of worksheet 1. The parent requesting an adjustment for health insurance premiums must submit proof of the cost for health insurance coverage of the child(ren). The parent paying the premium receives a credit against his or her share of the monthly support. If not otherwise specified in the support order, "health insurance" includes coverage for medical, dental, orthodontic, optometric, substance abuse, and mental health treatment.

(B) Health Care. Children's health care expenses are specifically included in the guidelines amount of up to \$480 per child per year. Children's health care needs are to be met by requiring either parent to provide health insurance as required by state law. All nonreimbursed reasonable and necessary children's health care costs in excess of \$480 per child per year shall be allocated to the obligor parent as determined by the court, but shall not exceed the proportion of the obligor's parental contribution (worksheet 1, line 6). If not otherwise specified in the support order, "health care costs" includes coverage for medical, dental, orthodontic, optometric, substance abuse, and mental health treatment.

(C) Cash Medical Support and Health Care Costs for Title IV-D Cases Only.

(i) All child support orders in the Title IV-D program must address how the parties will provide for the child(ren)'s health care needs through health care coverage and/or through cash medical support. Cash medical support or the cost of private health insurance is considered reasonable in cost if the cost to the party responsible for providing medical support for the child(ren) does not exceed 3 percent of his or her gross income. In applying the 3-percent standard, the cost is the cost of adding the child(ren) to existing health care coverage or the difference between self-only and family health care coverage. Cash medical support payment shall not be ordered if, at the time that the order is issued or modified, the responsible party's income is, or such expense would reduce the responsible party's net income, below the basic subsistence limitation provided in § 4-218. If a court orders a parent to pay cash medical support, it shall be in lieu of, and not in addition to, requiring the parent to also pay reimbursement for reasonable and necessary children's health care costs as set forth in subsection (B), above.

(ii) The amount of cash medical support ordered in the case shall be prorated between the parents. When worksheet 1 is used, it shall be added to the monthly support from line 7, then prorated between the parents to arrive at each party's share of monthly support on line 10 of worksheet 1. The parent paying the cash medical support receives a credit against his or her share of the monthly support.

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**§ 4-221. Rounding to nearest whole dollar.**

Final child support should be rounded to the nearest dollar in all instances.

**§ 4-222. Residence with third party.**

If the child is residing with a third party, the court shall order each of the parents to pay to the third party their respective amounts of child support as determined by the worksheet.

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## BASIC NET INCOME AND SUPPORT CALCULATION

	Mother	Combined	Father
1. Total monthly income from all sources (except payments received for children of prior marriages and all means-tested public assistance benefits)*	_____		_____
2. Deductions**			
a. Taxes***	_____		_____
b. FICA	_____		_____
c. Retirement	_____		_____
d. Child support previously ordered for other children	_____		_____
e. Regular support for other children	_____		_____
f. Total deductions	_____		_____
3. Monthly net income (line 1 minus line 2f)	_____		_____
4. Combined monthly net income		_____	
5. Combined annual net income (line 4 times 12)		_____	
6. Percent contribution of each parent (line 3, each parent, divided by line 4)****	_____		_____
7. Monthly support from table 1		_____	
8. Health insurance premium***** <u>or</u> <u>cash medical support as ordered</u>	_____		_____
9. Total obligation (line 7 plus 8)		_____	

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|--|-------|-------|
| 10. Each parent's monthly share<br>(line 9, times line 6, for each parent) | _____ | _____ |
| 11. Each parent's credit for health<br>premium actually paid (line 8)      | _____ | _____ |
| 12. Each parent's final share of the<br>obligation (line 10 minus line 11) | _____ | _____ |

\* Court will require copies of last 2 years' tax returns to verify "total income" figures and copies of present wage stubs to verify the pattern of present wage earnings, except where a party is claiming an allowance of depreciation as a deduction from income, in which case a minimum of 5 years' tax returns shall be required. Income should be annualized and divided by 12 to arrive at monthly amounts.

\*\* All claimed deductions should be annualized and divided by 12 to arrive at monthly amounts.

\*\*\* Deductions for taxes will be based on the annualized income and the number of exemptions provided by law.

\*\*\*\* In the event of substantial fluctuations of annual earnings of either party during the immediate past 3 years, the income may be averaged to determine the percent contribution of each parent as shown in item 6. The calculation of the average income shall be attached to this worksheet.

\*\*\*\*\* The parent requesting an adjustment for health insurance premiums must submit proof of the cost of the premium for the child(ren).

## DEVIATIONS TO CHILD SUPPORT GUIDELINES

This worksheet may be completed by the court and filed with the clerk in the event of a deviation or deviations under § 4-203 of the child support guidelines.

	Mother	Father
1. Net income of the parties as computed under worksheet 1	\$ _____	\$ _____
2. Combined monthly income	\$ _____	
3. Percent contribution of each	_____ %	_____ %
4. Monthly support for child(ren) from table 1	\$ _____	\$ _____
5. Health insurance premium	\$ _____	\$ _____
6. Total obligation	\$ _____	\$ _____
7. Each parent's monthly share	\$ _____	\$ _____
8. Each parent's credit for health premium actually paid	\$ _____	\$ _____
9. Each parent's final share of the obligation	\$ _____	\$ _____
10. Further deviations (specify)		
a. reason 1 _____	\$ _____	\$ _____
b. reason 2 _____	\$ _____	\$ _____
c. reason 3 _____	\$ _____	\$ _____
d. Total	\$ _____	\$ _____
11. Each parent's monthly share (line 9 above)	\$ _____	\$ _____
12. (+/-) Line 10d	\$ _____	\$ _____
13. Adjusted child support	\$ _____	\$ _____

Dated: \_\_\_\_\_

\_\_\_\_\_  
Judge

County Case No. CI\_\_ - \_\_\_\_\_